Check Point Software Technologies Ltd. End User License Agreement

Version OE 1.1

This EndUser License Agreement (the "Agreement") is an agreement between you (both the individual installing the Product and any legal entity on whose behalf such individual is acting) (hereinafter "You" or " Your") and Check Point Software Technologies Ltd. (hereinafter " Check Point ").

TAKING ANY STEP TO SET-UP, USE OR INSTALL THE PRODUCT CONSTITUTES YOUR ASSENT TO AND ACCEPTANCE OF THIS END USER LICENSE AGREEMENT. WRITTEN APPROVAL IS NOT A PREREQUISITE TO THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT AND NO SOLICITATION OF ANY SUCH WRITTEN APPROVAL BY OR ON BEHALF OF YOU SHALL BE CONSTRUED AS AN INFERENCE TO THE CONTRARY. IF YOU HAVE ORDERED THIS PRODUCT SUCH ORDER IS CONSIDERED AN OFFER BY YOU, CHECK POINT'S ACCEPTANCE OF YOUR OFFER IS EXPRESSLY CONDITIONAL ON YOUR ASSENT TO THE TERMS OF THIS AGREEMENT, TO THE EXCLUSION OF ALL OTHER TERMS. IF THESE TERMS ARE CONSIDERED AN OFFER BY CHECK POINT, YOUR ACCEPTANCE IS EXPRESSLY LIMITED TO THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE WITH ALL THE TERMS OF THIS AGREEMENT, YOU MUST RETURN THIS PRODUCT WITH THE ORIGINAL PACKAGE AND THE PROOF OF PAYMENT TO THE PLACE YOU OBTAINED IT FOR A FULL REFUND.

1. DEFINITIONS:

1.1 "**Product**" means the embedded object code copy of the software program provided to You in connection with this Agreement, together with the associated original electronic media and/or associated hardware devices and all accompanying manuals and other documentation, and together with all enhancements, upgrades, and extensions thereto that may be provided by Check Point or its lawful vendors to You from time to time, unless otherwise indicated by Check Point.

1.2 **"Licensed Configuration**" means to the extent applicable, as indicated on the Product Key, the choice of features and the maximum number of Users accessing the firewall from the trusted side of the network. or any other hardware or software specifications, as declared by You in Your purchase order, or request for Product Key, if the Product purchased by You does not come with a Product Key then the Licensed Configuration shall be the minimum configuration allowed by the user manual upon which the licensing fee was based.

1.3 "**Product Key**" means the code provided to You which enables the Product to operate for the specified Licensed Configuration.

1.4 "**Third Party Software**" means any software programs provided by third parties contained in the Product as detailed in the user interface.

1.5 "**Third Party Software Provider**" means a third party which has the right to provide and grant licenses for the use of Third Party Software.

1.6 You are a **"Managed Service Provider"** if (a) You are in the regular business of providing firewall, VPN, or IP addressing management for a fee to entities that are not Your affiliates (**"Service Customers"**); or if you are a Company that provides such managed services to Standard Users that are a part of your corporation or of your affiliated companies ("Clients")(b) You indicated in Your purchase order or in requesting the Product Key that You intend to use the Products on behalf of Service Customers or Clients; and (c) you purchased the managed service provider package.

1.7 You are a **"Standard User"** if You indicated in Your purchase order or in requesting the Product Key that You intend to use the Products on Your own behalf, or you obtained the products from a Managed Service Provider, reseller, vendor or any other intermediate supplier.

2. LICENSE AND RESTRICTIONS:

2.1 **License**. Subject to the terms and conditions of this Agreement, Check Point hereby grants only to You, a non-exclusive, non-sublicensable, non-transferable license to install and use the Product in accordance with the relevant end user documentation provided by Check Point for the purchased Licensed Configuration. You have no right to receive, use or examine any source code or design documentation relating to the Product.

2.2 **Standard User Restrictions**. If You are a Standard User, the Products are licensed to You solely for use by You for Your own operations. No Product, nor any portion thereof, may be used by or on behalf of, accessed by, re-sold to, rented to, or distributed to any other party.

2.3 **Managed Service Provider Restrictions**. If You are a Managed Service Provider, the Products are licensed to You for use by You to provide policy management for the operations of Your Service Customers or Clients from an authorized location. No Product, nor any portion thereof, may be used by or on behalf of, accessed by, re-sold to, rented to, or distributed to any other party, except for the management of Your Clients or Service Customers who have made a valid purchase of the Product.

2.4 **General Restrictions**. You may not copy the Product, in whole or in part. The Product is licensed to You solely for your internal use by You and for You and the Product or any portion thereof may not be used or accessed by, sub-licensed to, re-sold to, rented to, or distributed to any other party. You agree not to allow

others to use the Product and You will not use the Product for the benefit of third parties except as permitted above. You acknowledge that the source code of the Product, and the underlying ideas or concepts, are valuable intellectual property of Check Point and You agree not to, except as expressly authorized and only to the extent established by applicable statutory law, attempt to (or permit others to) decipher, reverse translate, decompile, disassemble or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms or file formats or programming or interoperability interfaces of the Products by any means whatsoever. You will not develop methods to enable unauthorized parties to use the Product, or to develop any other product containing any of the concepts and ideas contained in the Product. You will not (and will not allow any third party to) modify Product or incorporate any portion of Product into any other software or create a derivative work of any portion of the Product. You will not (and will not allow any third party to) remove any copyright or other proprietary notices from the Product.

2.5 **Specific Restrictions**. The Product is licensed to You based on the applicable Licensed Configuration purchased The License permits the use of the Product in accordance with the designated number of users. Without derogation from any applicable laws, it is a violation of this End User License Agreement to create, set-up or design any hardware, software or system which alters the number of readable users presented to the Product with the intent, or resulting effect, of circumventing the Licensed Configuration.

2.6 **Evaluation License**. This Section 2.6 shall only apply if You are licensing the Product as an evaluation unit. The license is valid only for the designated period. In the event that You wish to enter into a longer-term license agreement with Check Point, the terms and conditions of this Agreement shall be applicable. In the event that You determine not to enter into a licensing transaction with Check Point at the end of the evaluation period, or in the event that Check Point advises You that discussions with respect to a licensing transaction have terminated, then Your rights under this Agreement shall terminate and You shall promptly return all Product to the representative that supplied the Product.

3. MAINTENANCE AND SUPPORT:

Check Point has no obligation to provide support, maintenance, upgrades, modifications, or new releases under this Agreement. The purchase of support shall be governed by the applicable Service Level Agreement. Any purchase of upgrades shall be subject to this End User License Agreement, unless otherwise determined by Check Point.

4. TITLE AND INTELLECTUAL PROPERTY:

All right, title, and interest in and to the Product shall remain with Check Point and its licensors. The Product is protected under international copyright, trademark and trade secret and patent laws. The license granted herein does not constitute a sale of the Product or any portion or copy of it.

5. TERM AND TERMINATION:

This Agreement is effective until terminated. Check Point may terminate this Agreement at any time upon Your breach of any of the provisions hereof that are not cured within 30 days. Upon termination of this Agreement, You agree to cease all use of the Product and to return to Check Point or destroy the Product and all documentation and related materials in your possession, and so certify to Check Point. Except for the license granted herein and as expressly provided herein, the terms of this Agreement shall survive termination.

6. INDEMNIFICATION:

Check Point shall have the right, but not the obligation, to defend or settle, at its option, any action at law against You arising from a claim that Your permitted use of the Product under this Agreement infringes any patent, copyright, or other ownership rights of a third party. You agree to provide Check Point with written notice of any such claim within ten (10) days of Your notice thereof and provide reasonable assistance in its defense. Check Point has sole discretion and control over such defense and all negotiations for a settlement or compromise, unless it declines to defend or settle, in which case You are free to pursue any alternative You may have.

7. LIMITED WARRANTY, WARRANTY DISCLAIMERS AND LIMITATION OF LIABILITY:

7.1 **Limited Warranty**. Check Point warrants to You that the encoding of the software program on the media on which the Product is furnished will be free from defects in material and workmanship, and that the Product shall substantially conform to its user manual, as it exists at the date of delivery as can be found on Check Point's web page (www.checkpoint.com), for a period of ninety (90) days from the date of purchase. Check Point's entire liability and Your exclusive remedy shall be, at Check Point's option, either: (i) return of the price paid to Check Point for the Product, resulting in the termination of this Agreement, or (ii) repair or replacement of the Product or media that does not meet this limited warranty. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN THIS SECTION 7.1, THE PRODUCT AND ANY SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED. CHECK POINT DOES NOT WARRANT THAT THE PRODUCT WILL MEET YOUR REQUIREMENTS OR THAT ITS OPERATION WILL BE UNINTERRUPTED OR ERROR FREE. CHECK POINT DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. Some jurisdictions do not allow the exclusion of implied warranties or limitations on how long an implied warranty may last, so the above limitations may not apply to You. This warranty gives You specific legal rights. You may have other rights which vary from jurisdiction to jurisdiction.

7.2 **Limitation of Liability**. EXCEPT FOR PERSONAL INJURY, IN NO EVENT WILL CHECK POINT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DAMAGES ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT, THE PRODUCT OR ANY SERVICES UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), OR FOR LOSS OF OR CORRUPTION OF DATA), OR FOR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR TECHNOLOGY, IRRESPECTIVE OF WHETHER CHECK POINT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CHECK POINT'S MAXIMUM LIABILITY FOR DAMAGES SHALL BE LIMITED TO THE LICENSE FEES RECEIVED BY CHECK POINT UNDER THIS LICENSE FOR THE PARTICULAR PRODUCT(S) WHICH CAUSED THE DAMAGES. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to You.

8. GOVERNMENT REGULATION AND EXPORT CONTROL

8.1 **Government Regulations**. You agree that the Product will not be shipped, transferred, or exported into any country or used in any manner prohibited by law.

8.2 **Export**. The Product is subject to export control laws of the State of Israel and/or may be subject to additional export control laws applicable to You or in Your jurisdiction, including, without limitation, the United States. If the Product contains any encryption device You must contact Check Point's export regulation information page (www.checkpoint.com) for specific information. You agree that You will not ship, transfer, or export the Product into any country, or make available or use the Product in any manner, prohibited by law.

8.3 You understand and acknowledge that upon entry of the Product into the United States it becomes subject to regulation by agencies of the U.S. government, including the U.S. Department of Commerce, which prohibit export or diversion of certain products and technology to certain countries. Any and all of Your obligations with respect to the Product shall be subject in all respects to such United States laws and regulations as shall from time to time govern the license and delivery of technology and products abroad by persons subject to the jurisdiction of the United States, including the Export Administration Act of 1979, as amended, any successor legislation, and the Export Administration Regulations ("EAR") issued by the Department of Commerce, International Trade Administration,and Bureau of Export Administration. You warrant that You will comply in all respects with the export and reexport restrictions applicable to the Product and will otherwise comply with the EAR or other United States laws and regulations in effect from time to time.

8.4 You warrant and agree that You are not: (i) located in, under the control of, or a national or resident of Cuba, Iraq, Libya, North Korea, Iran, Syria, Sudan, or (ii) on the U.S Treasury Department list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders.

9. GENERAL:

9.1 **Miscellaneous**. You may not assign your rights or obligations under this Agreement without the prior written consent of Check Point. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect. The laws of the State of Israel shall govern all issues arising under or relating to this Agreement, without giving effect to the conflict of laws principles thereof. All disputes arising under or relating to this Agreement shall be resolved exclusively in the appropriate Israeli court sitting in Tel Aviv, Israel. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. This Agreement sets forth the entire understanding and agreement between You and Check Point and may be amended only in writing signed by both parties.

9.2 **Third Party Software.** Certain Third Parties Software may be provided with the Product for use in connection with the Product subject to the licenses of their respective proprietors. The Third Parties Software may be used only in connection with the Products. The provisions of this Agreement shall apply to all Third Party Software Providers and to Third Party Software as if they were the Product and Check Point, respectively.

9.3 **Government Restricted Rights**. This provision applies to Product acquired directly or indirectly by or on behalf of any Government. The Product is a commercial product, licensed on the open market at market prices, and was developed entirely at private expense and without the use of any U.S. Government funds. Any use modification, reproduction, release, performance, display, or disclosure of the Product by any Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement, and no license to the Product is granted to any government requiring different terms.

9.4 **Questions?** Should You have any questions concerning this Agreement contact the manufacturer at Check Point Software Technologies Ltd., 3a Jabotinsky St., Ramat-Gan, Israel 52520.

CHECK POINT SOFTWARE TECHNOLOGIES LTD.

LIMITED HARDWARE WARRANTY

Limited Hardware Warranty. Check Point warrants that the hardware components of the Hardware Products shall be free from material defects in design, materials, and workmanship and will function, under normal use and circumstances, materially in accordance with the documentation provided with such Hardware Products for a period of one year from the date of shipment by Check Point. Your sole and exclusive remedy, and Check Point's sole and exclusive liability for defective hardware components shall be that Check Point, at its sole option, subject to the terms and conditions of this Section, and solely upon confirmation of a defect or failure of a hardware component to perform as warranted, shall either repair or replace the nonconforming hardware component. All replacement parts furnished to You under this warranty shall be new or refurbished and equivalent to new, and shall be warranted as new for the remainder of the original warranty period. All defective parts, which have been replaced, shall become the property of Check Point. All defective parts that have been repaired shall remain Your property.

Procedures. A Hardware Product or one of its component parts may only be returned to Check Point with Check Point's prior written approval. Any such approval shall reference a returned material authorization number issued by an authorized Check Point service representative. Transportation costs, if any, incurred in connection with the return of a defective item to Check Point shall be borne by You. Any transportation costs incurred in connection with the redelivery of a repaired or replacement item to You by Check Point shall be borne by Check Point; provided, however, that if Check Point determines, in its sole discretion, that the allegedly defective item is not covered by the terms of the warranty or that a warranty claim is made after the warranty period, the cost of the repair by Check Point, including all shipping expenses, shall be reimbursed by You.

Exclusions. The foregoing warranties and remedies shall be void as to any Hardware Products damaged or rendered unserviceable by one or more of the following: (1) improper or inadequate maintenance by anyone other than Check Point or Check Point's authorized agents, (2) software or interfacing supplied by anyone other than Check Point, (3) modifications, alterations or additions to the Hardware Products by personnel not certified by Check Point or Check Point's authorized agents to perform such acts, or other unauthorized repair, installation or opening or other causes beyond Check Point's control, (4) unreasonable refusal to agree with engineering change notice programs, (5) negligence by any person other than Check Point or Check Point's authorized agents, (6) misuse, abuse, accident, electrical irregularity, theft, vandalism, fire, water or other peril, (7) damage caused by containment and/or operation outside the environmental specifications for the Hardware Products, (8) alteration or connection of the Hardware Products to other systems, equipment or devices (other than those specifically approved by Check Point) without the prior approval of Check Point, or (9) any use that is inconsistent with the user manual supplied with the Hardware Product .

Limitation of Liability. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, NEITHER CHECK POINT NOR ITS SUPPLIERS WILL BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY, REGARDLESS OF WHETHER CHECK POINT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FOR: (i) ANY PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST DATA OR LOST PROFITS; OR (ii) FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES; OR (iii) FOR ANY CLAIMS BASED ON ANY ERROR, DEFECT OR NONCONFORMITY IN THE PRODUCTS OR SERVICE, FOR ANY AMOUNT IN EXCESS OF THE PRICE PAID TO CHECK POINT FOR SUCH DEFECTIVE PRODUCT(S) OR SERVICE; OR (IV) FOR ALL OTHER CLAIMS NOT RELATED TO AN ERROR, DEFECT OR NONCONFORMITY IN THE PRODUCTS, ANY AMOUNTS IN EXCESS IN THE AGGREGATE OF THE AMOUNT PAID TO CHECK POINT HEREUNDER DURING THE THREE (3) MONTHS PRECEDING THE DATE THE CAUSE OF ACTION AROSE.